

BEFORE THE COLUMBIA RIVER GORGE COMMISSION

In the matter of an appeal by Friends of the)	
Columbia Gorge, Inc. and Columbia Gorge)	CRGC No. COA-K-11-02
Estates, LLC of a decision by the Columbia)	
River Gorge Commission determining the)	FINAL OPINION AND
location of the Dallesport Urban Area)	ORDER
boundary line across a parcel of land in)	
Klickitat County)	
_____)	

This case involves an appeal by Friends of the Columbia Gorge, Inc. and Columbia Gorge Estates, LLC (collectively, “Appellants”) of a survey of the Dallesport Urban Area on property owned by Keith Arndt in his capacity as trustee of the Arndt Living Trust. Appellants challenged the survey. The Columbia River Gorge Commission met on January 14, 2014 to hear oral argument and deliberate to a decision. Prior to oral argument, the Commission encouraged the parties to consider settlement. As a result, the parties reached a proposed settlement, and reported back to the Commission that they had reached an agreement, but with the understanding that three of the parties needed to take further action to approve the settlement before the settlement could be final. The parties requested a 60-day stay to secure the final approvals, and the Commission granted the stay. Thereafter, the parties’ respective final decision makers approved the settlement. At the Commission’s meeting on February 11, 2014, the parties

moved the Commission to accept the settlement. The Commission voted to accept the settlement.

I. PARTIES

The original parties to this matter were:

Friends of the Columbia Gorge, represented by Nathan Baker, Staff Attorney, Portland, Oregon and Gary K. Kahn, Reeves, Kahn, Hennessy & Elkins, Portland, Oregon;

Columbia Gorge Estates, LLC, represented by Gary K. Kahn, Reeves, Kahn, Hennessy & Elkins, Portland, Oregon; and

Keith Arndt and the Arndt Living Trust, represented by John M. Groen, Groen Stephens & Klinge, LLP, Bellevue, Washington.

The following parties participated in the hearing:

Klickitat County, represented by Susan Drummond, Law Offices of Susan Drummond, PLLC, Kirkland, Washington, and Lori Hoctor, Klickitat County Prosecuting Attorney, Goldendale, Washington; and

Don McDermott.

II. PROCEDURAL MATTERS AND RULINGS

Disclosure of Conflicts of Interest and Ex Parte Contacts

Gorge Commissioner Bowen Blair disclosed that he was executive director of Friends of the Columbia Gorge, Inc. from 1982 to 1988. Subsequently, Commissioner Blair served as a board member of Friends of the Columbia Gorge, Inc. up to March 2011. Commissioner Blair stated that he believed he could be fair and objective in deciding this matter. No person raised any concerns or objections about this contact.

No other commissioner disclosed any conflict of interest or ex parte contact and no party or other person¹ raised concerns with any commissioner's participation.

¹ The Commission held a public hearing.

III. FACTS

The property that is the subject of this dispute is approximately 5.24 acres in size and is owned by Keith Arndt in his capacity as trustee of the Arndt Living Trust. The property is located within the Scenic Area. The northwest boundary of the Dallesport Urban Area traverses the property. Part of the property is in the General Management Area (“GMA”); part of it is in the urban area. The Commission discussed the historical facts of this matter through 2009 in its previous final order and opinion in a related appeal, No. COA-K-09-03.

After the Commission’s decision in 2009, all parties sought judicial review of the Commission’s decision. Klickitat County, Mr. Arndt, and the Gorge Commission entered into a settlement agreement and all parties dismissed all appeals. Mr. Arndt conducted a survey of the urban area boundary line on his property and submitted it to the Forest Service, which signed the survey document within a signature block that stated it was accepting the survey on behalf of the Gorge Commission. Subsequently, Klickitat County issued a final plat and a boundary line adjustment decision based on the survey.

In the instant appeal, Appellants challenge what they alleged was a decision of the Gorge Commission determining the location of the Dallesport Urban Area boundary line across Mr. Arndt’s property in Klickitat County.² In a related appeal, CRGC No. COA-K-13-01, Appellants challenged the final plat and boundary line adjustment decision. This Order does not involve that related appeal.

² One of the issues on appeal would have been whether this matter involved a decision of the Gorge Commission that could be appealed to the Gorge Commission. The Gorge Commission did not resolve this issue, and this Order takes no position on that issue.

IV. ORDER

The Commission accepts the settlement agreement between Friends of the Columbia Gorge, Inc., Columbia Gorge Estates, LLC, Keith Arndt and the Arndt Living Trust, and Klickitat County resolving CRGC appeal no. COA-K-11-02.³ The Commission staff will include the Dallesport Urban Area boundary as shown in Exhibit A of the settlement agreement into the legal description for the Dallesport Urban Area. Lot 1 of SPL 2008-24 as amended by BLA 2012-04 is entirely within the General Management Area. Lot 2 is entirely within the Dallesport Urban Area.

DATED this 18th day of March, 2014



Jim Middaugh, Chair
Columbia River Gorge Commission

NOTICE: You are entitled to judicial review of this Final Order within 60 days from the date of this order, pursuant to section 15(b) (4) of the Scenic Area Act, P.L. 99-663.

³ On February 11, 2014, Klickitat County adopted a resolution relating to this settlement agreement (Resolution No. 01514). Resolution No. 01514 includes various statements about the background of this dispute, the settlement proposal, and Klickitat County's remaining concerns. This Order does not adopt that resolution and the Commission takes no position on the statements in the resolution.

CERTIFICATE OF MAILING

I certify that on the 18th day of March 2014, I mailed the attached FINAL OPINION AND ORDER to the following attorneys and parties in this matter and others listed below by electronic mail only:

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